G.O. No. 1998

DATED 10-10-27

CURRENT No.

Received ..... 192 *Registered* 192

B 3
My
20-9-27

Subject.

SUITS - (Kanara South) - High Court - A.S. 259/21 - Escheat Possession of properties - Execution of decree - Progress.

ENCLOSURES
No.
Spare copies

REFERENCE No. A.1514/26-13

Station Madras. , *Dated the* 14th September 192 7

From

B.G. Holdsworth Esq., I.C.S.,
Secretary,

Land Revenue. &
The Board of Revenue, ~~Revenue~~ Settlement, ~~etc.~~
~~Separate Revenue.~~

H.A.B. Vernon Esq., I.C.S.,
Commissioner of Land Revenue.

~~Resolution~~
Reference.

Read the following:-

Letter from E.M. Gawne Esq., I.C.S., Collector of South Kanara, No. Ref. A3-4471-21, dated 30th August 1927.

REFERENCE.

Submitted to Government in continuation of Board's Reference A.1514/26-11, dated 23rd May 1927.

2. In regard to the proposal for compromise, the Board agrees with the Collector in considering that the appellants may for the present be informed that no compromise can be accepted unless the obstruction to the delivery of the property and the Privy Council Appeal are withdrawn.

3. If definite proposals are received in future and

they are favourable to Government the Collector may address the Board again.

N. P. Holderness

Secretary.

To the Secretary to Government, Revenue Department.

To the Collector of South Kanara.

V.C/17.9.1927.

19.9.27

Copy of letter from E.I. Gawne Esq., I.C.S., Collector of South Kanara, No. Ref. A3-4471-21, dated 30th August 1927:-

---

Suits - Madras - High Court - A.S. 259/21 under appeal to Privy Council - Execution of decree - Progress.

Board's Reference No. A.1514/26-11, dated 23-8-1927.

There is absolutely no progress in the matter of the execution of the decree.

2. The defendants who had been granted a month's time to produce the security of Rs.2,000/- by the High Court in its order for the stay of execution for delivery of property failed to produce the security. The Subordinate Judge accordingly posted the enquiry regarding the removal of the obstruction for the delivery of the property first to the 12th August and afterwards to the 19th August, as 12th was a holiday. The Government Pleader, Mangalore, says that as the 1st obstructor Lingamma Bhedthi, elder sister of the 1st defendant Duggappa Bhandari contended that the property is in her possession and enjoyment as the senior most member and pattadarthi, the case has been adjourned to 23rd September 1927 for examining witnesses to prove the contention of Government that only defendants 1 and 2 are in possession of the property and paying the assessment thereof and taking genichits and collecting rents. An affidavit of the Tahsildar of Udipi, M.R.Ry. K. Shiva Rao has already been filed in this connexion in support of the contention of Government that it is only defendants 1 and 2 who have been and are still in possession and enjoyment of the property, that they are the pattadars thereof and are paying the assessment In the circumstances and considering how late this obstruction arises I should hardly have thought further evidence was necessary However I cannot tell the District Munsif this. I have now arranged with the Tahsildar of Udipi taluk to produce the list of witnesses to be examined on behalf of Government on that date.

3. As the High Court decree contains a direction that mesne profits have to be ascertained until the date of delivery of the property, the commission for ascertaining the mesne profits will issue only after the property is delivered, that is after the obstruction is removed. I will submit a further report in the matter as soon as the delivery of property is settled.

4. I have however to bring to the notice of the Board that defendants 1 and 2 who have appealed to the Privy Council against the decision of the High Court have submitted for favourable consideration through their Vakil the following comprimise proposals:-

(i) As the defendants have been enjoying the property till now for a long time, it shall be conveyed to them for a reasonable price.

(ii) The Government should give up their claim for mesne profits.

(iii) The defendants shall pay the Government all the costs of the suit and appeals incurred till now.

(iv) The Government may withdraw the amount deposited in Court for compensation for improvements of the defendants.

The proposals are not definite and the Vakil had little or no instructions to discuss the case. The only advantage which Government will derive by this proposal is that Government will get the price of the property amounting to about Rs.7,500 immediately without having to wait for the lapse of 12 years. In return for this advantage the Government will have to give up the claim for mesne profits which with interest approximately come to about Rs.9,000. As regards the costs incurred till now which come to about Rs.6,000 and the amount deposited viz. 1,903-0-10 on account of compensation, they are any how the actual amounts of expenditure incurred by Government. The proposals are not very encouraging; no doubt they are dictated by the anticipated cost of the Privy Council appeal. However I wanted to await the result of the obstruction petition originally posted to the 12th August before bringing the offer of compromise to

the Board's notice. I now find that there is no immediate prospect of the obstruction being removed. I do not consider the obstruction petition is anything except a delaying motion. Further it is to be presumed that the Government Pleader, Madras considers the Government defence in the Privy Council appeal to be sound. So I have nothing particular to say for the proposed compromise except to suggest telling the parties that no compromise will be considered unless both obstruction and Privy Council appeal are withdrawn.

Suit (S. Kanara) — High Court —
A. S. 259/21 — Escheat —
possession of properties —
Execution of decree - Progress
Board's Reference No. A 1514/26.
13 dt 14. 9. 27.

—

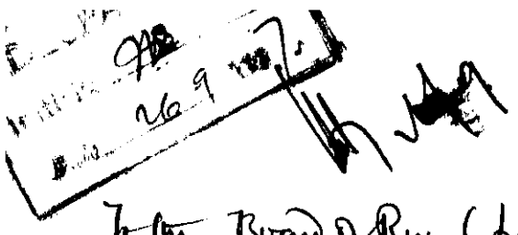
Memo No 3773 B/27.1 dt 9.27

The Board of Revenue is
requested to send urgently a
Copy of the Board's Reference
A 1514/26-11 dt 23. 5. 27 referred
to in paragraph 1 of the Board's
Refce. No. A 1514/26-13 dt 14. 9. 27

24/9/27

24.9.27

24.9.27.



To the Board of Rev (L.R.&S.)

B 3 02 40-27

REVENUE

CURRENT No. 3981B

Received 1-[illegible]-1927 192

Registered 1-10

Subject.

SUITS - (Kanara South) - High Court - A.S. 259/21 Escheat - Possession of properties - Execution of decrees - Progress - Copy of Ref. 1514/26-11, dated 23-5-1927 - Submitted.

ENCLOSURES
No.
Spare copies

REFERENCE No. A.1514/26-14

Station Madras., *Dated the* 29th September 192

From

B.G. Holdsworth Esq., I.C.S.,
Secretary,

The Board of Revenue, ~~Revenue~~ Land Revenue. & ~~Separate Revenue.~~ Settlement, etc

H.A.D. Vernon Esq., I.C.S.,
Commissioner of Land Revenue.

~~Resolution~~ Reference.

Read the following:-

Memorandum from Government, Revenue Department No. 3773-B/27-1, dated 26-9-1927.

REFERENCE.

A copy of Board's Reference A.1514/26-11, dated 23rd May 1927 is herewith submitted.

V Gopalan
for Secretary.

To the Secretary to Government, Revenue Department with a copy of Board's Reference A.1514/26-11, dated 23rd May 1927.

V.G/29.9.1927.

Copy of Board's Reference No. A.1814/26-11, dated 23rd May 1927:-

he following:-

Letter from C.A. Gawne Esq., I.C.S., Collector of South Kanara, No. Ref. on A3-4471-21, dated 14th May 1927

Suits - Madras High Court - A.S. No. 259/21 - Execution of decree - Progress.

Board's Reference A.No.1814/26-10, dated 3-5-1927.

As the Subordinate Court is now closed and will reopen after the recess only at the end of June, no progress in the matter of realisation of past mesne profits and costs can be expected before the end of June.

2. The Government Pleader says that a commission for ascertaining the mesne profits will have to be taken out before it can be realised in execution. I have requested the Government Pleader to take necessary steps in the matter as early as possible after the reopening of the Court so that the mesne profits and costs may be realised expeditiously. I shall report the progress in the matter in the middle of July next.

[illegible].

Suits - (Kanara South) - Madras High Court - A.S. 259/21 - Execution of decree - Progress.

Submitted to Government in continuation of Board's Reference A.1814/26-10, dated 3rd May 1927.

2. The further report promised by the Collector is awaited.

(Sd) W. Scott Brown,
Secretary.

To the Secretary to Government, Revenue Department.
To the Collector of South Kanara.

Suit (S.Kanara) – High Cou

259/21 – Escheat – possession of properties

Execution of decree – Progress.

From the Board of Rev (A.R.&S.). ~~Ref~~ A 1514

26-13 dt 14.9.27.

OM. No 3773 B/27-1 dt 24.9.27 to Bd of Rev

From the Board (A.R.&S.). A 1514/26-14/29

C No 3773 B/

To A.S

Please see the Collector's letter on pp 3 to 5 C.f and the Board's Refce on pp 1-2 C.f

In A.S. No 259/1921 on the file of the High Court, the High Court held that certain properties belonging to an Aliasantkana family in S.Kanara escheated to Govt for want of heirs. The High Court also decided that the Govt were entitled to mesne profits on the properties decreed.

The Board of Rev. was requested to take necessary steps for the execution of the High Court decree. The Coll^r of S. Kanara filed an execution petition in the Mangalore Subcourt 1.7.26 The Subjudge ordered the delivery the property. But it could not be effected owing to the obstruction put up by the defe On behalf of the Govt a petition for remand

of the obstruction was filed in the Subcourt and the matter is still pending. Para 2 of the Collector's letter on p. 3 c. f. deals with the present stage of the petition for removal of obstruction

The defendants have appealed to the Privy Council against the High Courts' decision. However they submitted to the Govt. Certain Compromise proposals which were not much advantageous to the Govt. As the Govt defence in the Privy Council appeal is sound the Govt. proposes to tell the parties that no Compromise will be considered unless both obstruction and the Privy Council appeal are withdrawn The Board agreeing with the Collector has accordingly instructed them. No further action is necessary on this file now. The Collector's further report in regard to the progress ~~stage~~ of the petition for removal of obstruction will be Communicated to Govt in due Course. The papers may be recorded. We may say that the Govt. agree with the Bd's remarks in para 2 on p. 1. c. f.

MRV 6.10.21

To L.S

Draft submitted for approval
Issue
10.10.21

8.10.21

	Date.
When received for Fair-copying.	
When copied ..	
When examined ..	
When signed ..	
When despatched ..	

READ AGAIN G.O. No. ....., dated 192

" " " " " 192

READ ALSO :—

C. No. 37738 From the Board of Revenue, No. A 15-14/26-13, dated 14.7.27 192).

" " " " " " 192

" " " " " " 192

ORDER.

Mrs

No. 1998, dated 10.10.27 192

To the Board of Rev (Lands)

DESPATCHED
Initials
10/11/1927.

Recorded

2 The Govt agree with the remarks of the Board of Revenue in paragraph 2 of its reference read above.

10.10.27

Rev Department.

Routine notes [which are not to be (*a*) sent out of the office or (*b*) included in the originals or proceedings unless the notes are specially marked for retention or (*c*) printed].

Subject of file.

Cus 3773 B/27

D.O. N.S

please see the Board's Reference in the Current file. In para 1 reference is made to Board's Reference No A 1574/26-11 dt 23.5.27. The Board's Refce dt 23.5.27 has been received in the Section and registered in Clerk B,'s personal register as Current No. 2057 B/27 on 27.5.27. It is closed in Col. 15 of the personal register as "Filed with C.O. No. 967 dt 23.5.27. (K)

C.O. No 967 dt 23.5.27 is put up. (flag (K)) But the Board's Refce dt 23.5.27 is not stitched with it. The No in question (2057 B/27) is not also found in the Lodged, Endorsement, and Memo bundles in the records. ~~Apparently the letter is missing.~~ A Copy may be obtained from the Board of Rev (as it is required for disposal of this current) Draft memo is submitted for approval.

MMV 24/9/27